

# Chapter 8

## Sexual Harassment and Stalking

*“When I despair, I remember that all through history the way of truth and love has always won. There have been tyrants and murderers and for a time they seem invincible but in the end, they always fall - think of it, ALWAYS.” ~ Gandhi*

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### OBJECTIVES FOR THIS CHAPTER

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- Learn the definitions of sexual harassment and stalking
- Learn types of harassment, including stalking
- Learn to safety plan with victims
- Know what options are available for victims

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Sexual harassment and stalking are included in the same chapter since they often go hand in hand. They are both unwelcome behaviors that disrupt the victim’s life and compromise their safety. When working with a victim of sexual harassment or stalking, the steps to take for safety planning, reporting or prosecution are the same.

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### SEXUAL HARASSMENT

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#### **Sexual Harassment: What It Is and What It Is Not**

The Equal Employment Opportunity Commission (EEOC) guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made an implicit or explicit condition of an individual’s employment,
- submission to or rejection of such conduct affects employment opportunities, or
- such conduct interferes with an employee’s work or creates an intimidating, hostile, or offensive work environment.

The key phrases in the EEOC definition of sexual harassment are “unwelcome” and “of a sexual nature.” The behavior must be unsolicited and unwelcome by the victim. The phrase “of a sexual nature” means that sex or gender must be the underlying nature of the behavior. Men and women may have disputes or disagreements on the job, but this would not be viewed as harassment unless there is a sexual element to the interaction. Welcomed behavior or consensual contacts of a sexual nature are not harassment.

There are two types of harassment: (1) that which results in a tangible employment action and (2) that which creates an unlawful hostile environment but does not result in a tangible employment action.

An employer is always liable for a supervisor’s harassment if it results in a tangible employment action. Harassment involves a tangible employment action if it results in a significant change in employment status based on the employee’s responses to unwelcome sexual demands. Examples of tangible employment actions include hiring and firing, promotion and failure to promote, demotion, compensation decisions and work assignments.

If it does not involve a tangible employment action, however, the employer may be able to avoid liability or limit damages by establishing that it exercised reasonable care to prevent and correct promptly any harassing behavior and that the employee unreasonably failed to utilize the preventive or corrective opportunities provided by the employer.

**Conduct between co-workers:** an employer is responsible for acts of sexual harassment in the workplace where the employer knew or should have known of the conduct, unless it can be shown that the employer took immediate and appropriate corrective action.

### **The Laws that Prohibit Harassment**

Title VII of the Federal Civil Rights Act of 1964 prohibits discrimination in the workplace because of race, color, sex, religion, and national origin. Other federal laws prohibit discrimination because of age or disability. Harassment is a form of discrimination covered under these laws.

The EEOC has issued guidelines on sexual harassment in employment which provide the legal definition of harassing behavior and which set forth the standards followed by enforcement agencies and the courts in handling charges of sexual harassment. The definition’s framework can also be applied to harassment for other reasons.

The Iowa Civil Rights Act of 1965, Iowa Code Chapter 216, also prohibits employment discrimination because of race, sex, religion, creed, national origin, age, color, or disability. Harassment is considered a form of prohibited discrimination. The state goes beyond Title VII by also prohibiting discrimination in the areas of housing, public accommodations, credit and education.

In 2012, the EEOC concluded that sex discrimination includes lesbian, gay, bisexual, and transgender individuals.

In addition, many cities have human rights/civil rights ordinances that prohibit discrimination in the workplace.

## Examples of Harassing Conduct

Specifically, what types of actions, if not welcomed by the recipient of the behavior, could be viewed as harassment? Inappropriate actions break down into four types of behavior.

**Physical:** touching in a sexual manner, pinching, patting, rubbing up against, gestures, and assault

**Verbal:** jokes of a racial, ethnic, or sexual nature; comments or questions about a person's body, dress, or personal life, using demeaning or inappropriate terms; using crude and offensive language of a sexual nature; name-calling or racial or ethnic slurs; demeaning comments about age or disability

**Visual:** cartoons, drawings, or caricatures of a racial, ethnic, or sexual nature; pin-up pictures or calendars; displaying sexual objects in the workplace. Electronic messages or e-mail are frequently used for inappropriate personal messages, or to distribute materials that are offensive. Even after these messages are deleted on the computer, they may be retrieved to use as evidence of harassment.

**Hazing:** teasing, ostracizing, practical jokes of a sexual, racial or ethnic nature, starting or spreading rumors about a person's personal life or sexual activities

**Note:** In determining if your own conduct might be unwelcome to others, consider these questions: "Would my behavior change if someone from my family was present?" and "Would I want my spouse or child to be treated this way?"

## How to Respond as an Advocate

Your primary response will be to validate the victim's feelings. Harassment is often an isolating and confusing experience. It may also be helpful to suggest some action steps to the victim. Here are some ideas:

- **Encourage the victim to know employee rights**, including the company's policy prohibiting harassment and its internal grievance procedure.
- **The victim can report it to their supervisor, manager, or personnel administrator.** The employer may not be liable unless they knew or should have known that the harassment was taking place. If the harasser is the owner of the business, the victim may need to go directly to an outside enforcement agency.
- **The victim may wish to keep a written record of the offensive behavior**, documenting as precisely as possible what happened: when and where it took place; the names of witnesses, if any; the victim's response; and any other information that may be helpful later. This documentation will be extremely helpful during an investigation, whether it be an internal investigation or one done by an outside agency.
- **The victim may want to find out whether other employees have also been harassed, and whether they could offer confirming testimony.** There is strength and support in numbers.
- If the victim has been physically or sexually abused, action can be taking by **filing criminal charges against the abuser.**
- **Encourage the victim to not blame themselves for someone else's behavior.** The victim did not cause the harassment.

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## STALKING

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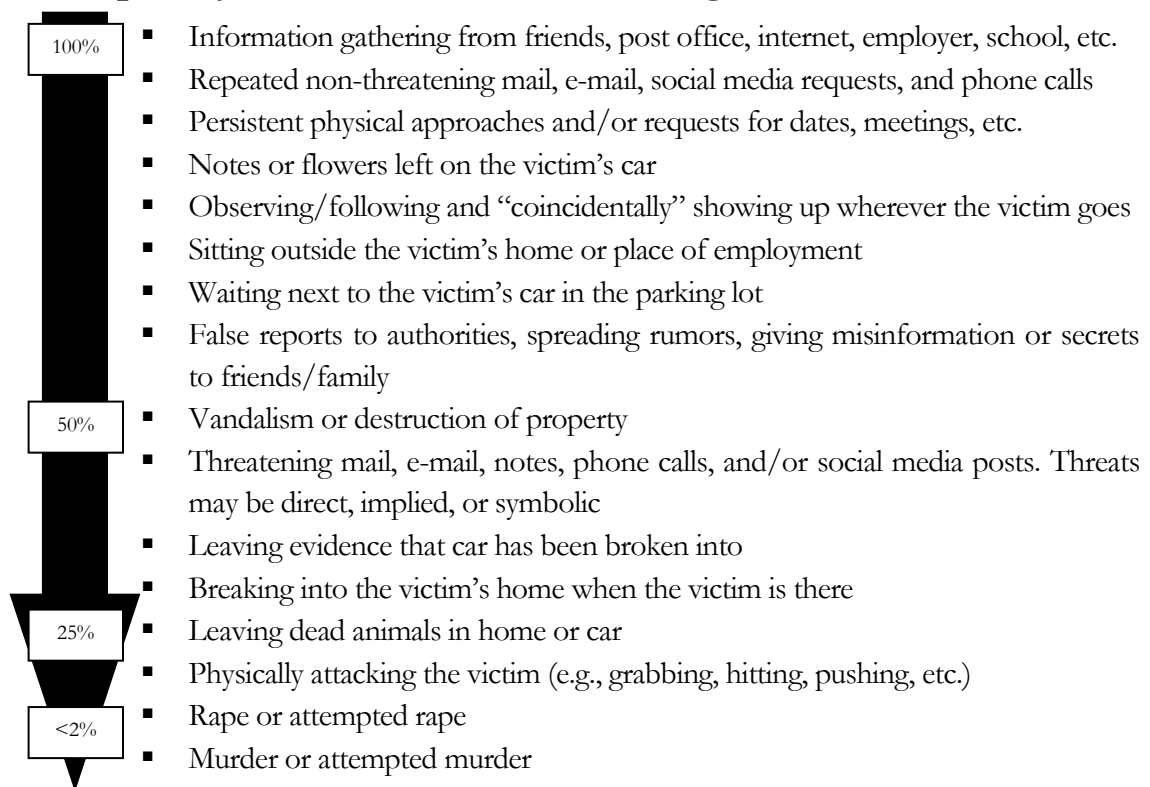
As an advocate with RVAP, when you talk with someone who is being stalked you will use your empathy tools to explore and validate feelings. Stalking is a serious offense and it is important to convey that to the victim.

### Elements of Stalking

Most stalkers are not strangers, but are known by their victim. Each stalking behavior by itself may or may not be illegal and generally does not constitute the crime of stalking. When these behaviors are viewed together, however, a pattern emerges that serves no other purpose than to annoy, alarm, or terrorize a victim. Despite the development of stalking laws across the nation, stalking remains an under-detected

crime that is hard to prove and terrifying to experience. The following table describes the various elements of stalking, ranging from the least to the most intrusive.

### Frequency and Escalation of Stalking Behaviors<sup>1</sup>



<sup>1</sup> Spence-Diehl, Emily. *Stalking: A Handbook for Victims*. New York: Learning Publishings, Inc., 1999. Print.

## Common Characteristics of Stalkers

- Jealous in nature
- Both obsessive and compulsive
- Falls in “love at first sight”
- Extremely manipulative/turns victim’s words around
- Very self-centered or arrogant
- Never responsible for own actions or feelings
- Confuses fantasies with reality
- Socially inadequate or awkward
- Feels they are always the victim of others
- Sneaky
- Won’t take “no” for an answer
- Violent mood swings, especially between love and hate
- Often are of above-average intelligence
- Tremendous sense of entitlement
- Controlling
- Does not cope well with rejection
- Seems rational/makes their victim look hysterical
- Showers victim with presents
- Uses guilt trips/blackmail
- Promises this will be the last time they bother their victim
- Makes accusations about their victim
- Charms others into being their accomplice

## Safety Planning and Stalking<sup>2</sup>

Remind the victim that they have done nothing wrong and have every right to take steps towards being safe.

Victims of stalking include individuals presently at risk for imminent danger to their physical/emotional welfare, and those with danger continually pending, but not immediately at risk for harm. In addition to becoming familiar with stalking laws that presently exist, victims of stalking should be informed about the resources and procedural precautions available to assist and protect them. Stalking is a crime that can touch anyone, regardless of gender identity, race, sexual orientation, socio-economic status, geographical location, or with whom a person may associate.

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The following is not intended to be a set of strict guidelines for stalking victims, but rather practical information to assist them. There is no guarantee that if a victim follows all, or some, of these strategies that they will be safe; however, implementing these strategies may reduce the odds of physical or emotional harm from a stalker. Any persons who suspect or believe that they are currently being stalked should report all contacts and incidents to their local law enforcement authorities.

## **Victims in Imminent Danger**

The primary goal of a victim in imminent danger should be to locate a safe place. Safety for stalking victims can often be found in the following places:

- Police stations
- Residences of family/friends (location unknown to perpetrators)
- Domestic violence shelters or local churches, etc.
- Public areas (stalkers may be less inclined toward violence or creating a disturbance in public places)

If departure from the current location is not possible, but a telephone is accessible, a victim may contact local law enforcement at 911 or any other law enforcement/emergency number.

In dangerous situations, family members or friends can assist in a victim's departure from their home or office. It is advised that as much caution as possible always be exercised when directly confronting the offender, as stalking sometimes escalates into violence.

Upon reaching safety, a victim may want to communicate with local law enforcement, victim services, mental health professionals and/or some social services agencies in order to receive additional assistance and referrals available in the community. Victims of stalking should always identify themselves as such and request confidentiality of all information given and any records kept or filed. If the stalker caused property damage or physical harm, the victim may choose to file a report with law enforcement.

## **Victims in Danger, But Not Immediately at Risk**

While a victim may not be in immediate danger, they need to assess the probability of impending danger. If a stalking victim is at risk for being in a potentially harmful or violent situation, the following options may be considered:

### **No contact orders:**

Generally, these orders require the offender to stay away from, and not interfere with, the complainant. If violated, they may be punishable by incarceration, a fine or both. These orders are typically obtained through a magistrate's office or local court. Contact the local clerk of court's office for information about where to obtain orders.

Restraining orders are not foolproof – they often do not extend beyond certain lines of jurisdiction, and can only be enforced if they are broken. Victims should be cautioned against developing a false sense of security.

### **Determine if the stalker has broken the law:**

A victim may determine that the perpetrator has broken the law by entering the victim's residence without permission, stealing/destroying the victim's property, physically/sexually assaulting the victim, etc.

If so, these acts may be punishable. Notifying police of illegal acts may be important for the following reasons: if convicted, the perpetrator may be incarcerated/ordered to stay away from the victim; charges may intimidate the offender, sending the message that the offender's actions are illegal and will not be tolerated; and notifying the police produces documentation, which may be useful in a future complaint for evidentiary or credibility purposes.

### **Safety plan:**

While a victim may not be in imminent danger, the potential always exists. Therefore, a safety plan may be appropriate. Suggested considerations include knowledge of and quick access to:

- Critical telephone numbers, including: law enforcement numbers and locations
- Safe places: friends, domestic violence shelters, etc.
- Contact numbers for use after safety is secured: such as neighbors, family, attorneys, prosecutors, medical care, child care and pet care
- Small packed suitcase in the trunk of their car, or at another readily accessible location, for quick departure
- Reserve money and other necessities: creditors' numbers and personal welfare items such as medication, birth certificates, social security information and passports
- Miscellaneous practical items: always keeping as full a tank of gas as possible in the car, backup keys for neighbors, etc.
- If a victim has a child(ren), they may want to pack a few toys, books, or other special items belonging to the child
- People who may be useful in formulating a safety plan: law enforcement; employers; family, friends, or neighbors; and security personnel

### **Optional preventive measures:**

- Install solid core doors with dead bolts. If victim cannot account for all keys, change locks and secure spare keys.
- Install adequate outside lighting. Trim back bushes and vegetation around residence.



- Maintain an unlisted phone number. If harassing calls persist, notify local law enforcement, but also keep a written log of harassing calls and any answering machine tapes of calls with the stalker's voice and messages.
- Treat any threats as legitimate and inform law enforcement immediately.
- Vary travel routes, stores and restaurants, etc., which are regularly used. Limit time walking, jogging, etc.
- Inform a trusted neighbor and/or colleagues about the situation. Provide them with a photo or description of the suspect and any possible vehicles they may drive.
- If residing in an apartment with an on-site property manager, provide the manager with a picture of the suspect.
- Have co-workers screen all calls and visitors.
- When out of the house or work environment, try not to travel alone if at all possible, and try to stay in public areas. If you ever need assistance, yell "FIRE" to get immediate attention, as people more readily respond to this cry for assistance than to any other.

## What Stalking Victims Can Do

**Get support:** It is helpful to locate a victim advocate in the victim's area for assistance. The sad truth is that many stalking victims are not taken seriously until the case has escalated to a frightening level. Because of this problem, it is helpful for victims to seek assistance from as many people as possible.

**Document:** It is critical to write down everything that has happened in chronological order in a journal remembering dates and details. This will become the master list that the caller will continue to add to as new stalking behaviors occur. The victim should keep in mind the "stick to the facts" principle when creating this list. If the victim decides to report the case to the police, they will need to know specific details, such as "On September 14, around 3:00 p.m., Joe Stalker drove down my street and parked his car directly across from my house. He stayed there, staring at my house until 9:00 p.m. that evening. I did not leave my house at all during that time. My neighbor, Ms. Brown, stated to me the next day that she observed him doing this as well."

- Documentation of stalking should be saved and given to law enforcement.
- Documentation of the actions of the perpetrator may be useful in future complaints or proceedings, for evidentiary or credibility purposes.
- May take the form of photos of destroyed property/vandalism, photos of any injuries inflicted on the victim by the perpetrator, answering machine messages saved on tape, letters or notes written by the perpetrator, etc.

- A victim should keep a written log of any crimes or suspicious activities committed by the perpetrator. Discretion should be used when making entries and it should be kept in a secured place, as the log may be used in court proceedings.

**Cross reference police reports:** If the victim has filed more than one police report, the department can file them together, or make reference in each one to the previous reports. This is especially important in large police departments that maintain a variety of separate units. If the victim has filed police reports in separate jurisdictions, make sure that each jurisdiction has copies of the others' reports. It is imperative that all reports be viewed together as a "pattern of behavior."

**Keep calling the detective:** If the victim is waiting for an outcome from a particular officer or detective, they can initiate calls and check for updates.

**Bring an advocate:** The victim can bring a victim advocate when filing a report. The presence of a third party seems to have a beneficial effect on the filing process.

**Label it stalking:** If the officer has not mentioned stalking, tell the victim to bring it up to the officer and ask if they believe it is possible to charge the perpetrator with that crime as well.

**Report all behaviors:** Report each incident, no matter how insignificant it may seem. Law enforcement can write "incident reports," rather than filing charges and these can later help support the overall stalking case (demonstrating a pattern of behavior).

**Keep all evidence:** No matter how disgusting or offensive, do not throw anything away. Give it to the police. Keep letters, flowers, gifts, and anything else that can be physically collected. It is not necessary for the victim to read every letter. They can instead give them directly to a police officer or victim advocate to read and keep for them.

**E-mail/social media harassment:** If the victim is receiving harassing email messages or social media posts, contact (or have the police contact) the server from which the harassing mail is coming from. The double-edged sword of threatening e-mail messages is that everything is traceable, even many files that have already been deleted. Many police departments now have computer specialists who specifically track criminals on the Internet.

**Phone harassment:** If the stalker leaves messages on voicemail, have an officer listen to the message and record it (or save the message somehow). With cell phones, the victim may want to talk with their provider about what is going on and also ask about changing the number. Remember that phone records make good evidence.

**Tell everyone:** If the victim feels safe to do so, have the victim describe the stalking to those in their personal and professional life, and ask them to report immediately if they ever see the stalker in the vicinity. Stalkers rely on secrecy. Also, eyewitness reports are critical in breaking down the “he said, she said” dilemma of prosecution.

## CONCLUSION

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It is important that you are able to listen to the victim using the skills you gained during training. Remember that a legal definition is not the only definition that qualifies a person as a victim of stalking or harassment. If they identify that they are experiencing this type of abuse, then support them. Secondly, assisting them with options of how to safety plan and to keep records etc. will be as vital as listening to them. Finally, be able to assist them with reporting these crimes they choose to.

## WHAT YOU NEED TO KNOW

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- Victims of stalking and sexual harassment need reassurance that they are not “crazy,” which is what the perpetrator wants them (and others) to think.
- Assure the victim that they did nothing to deserve being sexually harassed or stalked is not to blame.
- Emphasize creating a safety plan and documentation of incidents.
- Legal definitions, while important, are not the only indications of sexual harassment and stalking.

## FOR FURTHER READING

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**OBJECTIVES FOR THIS CHAPTER..... 123**  
**SEXUAL HARASSMENT ..... 123**  
**STALKING ..... 126**  
**CONCLUSION ..... 133**  
**WHAT YOU NEED TO KNOW ..... 133**  
**FOR FURTHER READING ..... 133**